

## **§ 20.12**

(4) Notifying the complainant and the recipient of their rights and obligations under the complaint procedure, including the right to have a representative at all stages of the process;

(5) Notifying the complainant and the recipient (or their representatives) of their right to contact DOC for information and assistance regarding the complaint resolution process.

(c) DOC will return to the complainant any complaint outside the jurisdiction of these regulations, and will state the reason(s) why it is outside the jurisdiction of these regulations.

### **§ 20.12 Mediation.**

(a) DOC will refer to a mediation service designated by the Secretary all sufficient complaints that:

(1) Fall within the jurisdiction of the Act and these regulations, unless the age distinction complained of is clearly within an exception; and

(2) Contain all information necessary for further processing.

(b) Both the complainant and the recipient shall participate in the mediation process to the extent necessary to reach an agreement or to make an informed judgment that an agreement is not possible.

(c) If the complainant and the recipient reach an agreement, the mediator shall prepare a written statement of the agreement and have the complainant and the recipient sign it. The mediator shall send a copy of the agreement to DOC. DOC will take no further action on the complaint unless the complainant or the recipient fails to comply with the agreement.

(d) The mediator is required to protect the confidentiality of all information obtained in the course of the mediation process. No mediator shall testify in any adjudicative proceeding, produce any document, or otherwise disclose any information obtained, in the course of the mediation process without prior approval of the head or the mediation service.

(e) The mediation will proceed for a maximum of 60 days after a complaint is filed with DOC. Mediation ends if:

(1) 60 days elapse from the time DOC receives the complaint; *or*

(2) Prior to the end of that 60-day period, an agreement is reached; *or*

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(3) Prior to the end of that 60-day period, the mediator determines that an agreement cannot be reached.

(f) The mediator shall return unresolved complaints to DOC.

### **§ 20.13 Investigation.**

(a) Informal investigation:

(1) DOC will investigate complaints that are unresolved after mediation or are reopened because of a violation of a mediation agreement.

(2) As part of the initial investigation, DOC will use informal factfinding methods, including joint or separate discussions with the complainant and recipient, to establish the facts and, if possible, settle the complaint on terms that are mutually agreeable to the parties. DOC may seek the assistance of any involved State program agency.

(3) DOC will put any agreement in writing and have it signed by the parties and an authorized official at DOC.

(4) The settlement shall not affect the operation of any other enforcement effort of DOC, including compliance reviews and investigation or other complaints which may involve the recipient.

(5) The settlement is not a finding of discrimination against a recipient.

(b) Formal investigation: If DOC cannot resolve the complaint through informal investigation, it will begin to develop formal findings through further investigation of the complaint. If the investigation indicates a violation of these regulations, DOC will attempt to obtain voluntary compliance. If DOC cannot obtain voluntary compliance, it will begin enforcement as described in § 8a.15.

### **§ 20.14 Prohibition against intimidation or retaliation.**

A recipient may not engage in acts of intimidation or retaliation against any person who:

(a) Attempts to assert a right protected by the Act or these regulations; *or*

(b) Cooperates in any mediation, investigation, hearing, or other part of DOC's investigation, conciliation, and enforcement process.